

9/29  
September 20, 2008  
CERTIFIED MAIL --  
RETURN RECEIPT REQUESTED

3/6 00 PM  
RECEIVED

2008 SEP 29 PM 2:52

TO: **U.S. EPA ADMINSTRATOR, U.S. ATTORNEY GENERAL,  
THE CITY OF OLYMPIA, THE PORT OF OLYMPIA, LOTT,  
WEYERHAEUSER, AND DOE DIRECTOR JAY MANNING**

OFFICE OF THE  
EXECUTIVE SECRETARIAT

**RE: *Notice of Violations and Intent to File Suit Under the Clean Water Act,  
And of Intent to Seek Revocation of State CWA Permitting Authority***

Greetings: Section 505 of the Federal Water Pollution Control Act (hereafter, "Clean Water Act") requires that sixty (60) days prior to the initiation of a civil action under 33 U.S.C. §1365(a), §505(a) and (b) of the Clean Water Act, a citizen must give notice of his/her intent to sue to the alleged violator, the U.S. Environmental Protection Agency, The U.S. Attorney General, and the State in which the violations occur and the registered agent of the alleged violator. This notice incorporates by reference all of the specifics of West's previous notice duly sent regarding Port of Olympia noncompliance with the Clean Water Act.

Arthur West hereby places the City of Olympia, (hereafter, "the City"), the Port of Olympia, (hereafter, "the Port"), LOTT, the State of Washington Department of Ecology, the Washington State Governor, EPA Administrator, and the Weyerhaeuser Co. (in all of its corporate forms, Hereafter "Weyerhaeuser") on notice that following the expiration of sixty (60) days from the date of this NOTICE OF INTENT TO FILE SUIT, we intend to bring suit in Federal District Court against all of you for violation of the CWA; authorization, construction and operation of unpermitted facilities, continuing violations of "an effluent standard or limitation", (33 USC 1311,-12, 1316-17, 1344-45) including standards of performance defined in 33 USC 1316, permit conditions or requirements and/or a permit, authorization, or "an order issued by the Administrator or a State with respect to such standard or limitation" under §505(a)(1) of the Clean Water Act, 33 U.S.C. §1365(a)(1), the Code of Federal Regulations, and the laws, policies and regulations of the State of Washington, Washington DOE, and the other named public entities, as exemplified by the Port's, City's, LOTT's and Weyerhaeuser's failure to obtain, operate under, and/or comply with the conditions and limitations of its National Pollutant Discharge Elimination System (hereafter, "NPDES") Permits issued by the State of Washington Department of Ecology pursuant to §402 of the Clean Water Act, 33 U.S.C. §1342, at the Port's City's, Weyerhaeuser's and LOTT's wastewater treatment facilities and industrial and storm water collection and discharge systems located in Thurston County, Washington, in the City of Olympia.

In addition, West will seek, pursuant to §505 (b) to have the Administrator act to perform the mandatory duty under 33 USC 1251 (d) to administer the act to revoke, or otherwise act to revoke the authority of the State of Washington to regulate NPDES compliance due to the manifest deficiencies in the State's regulation, issuance and monitoring of such permits on a statewide basis, apparent from the Phase II permitting process and the manifest and unconscionable ongoing violations at the Port of Olympia.

#### **BACKGROUND**

The Clean Water Act regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a polluter who has been issued a permit pursuant to the NPDES, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33U.S.C. § 1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. § 1311(a). Private parties may bring citizen's suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, which are defined as including violations of 33U.S.C. § 1311(a), 33 U.S.C. § 1365(f)(1). Unpermitted discharges also violate the act and provide a basis for action.

The term "discharge of pollutants" means "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12). Pollutants are defined to include, among other examples, chemical wastes, biological materials, heat, rock, toxic substances and sand discharged into water. 33 U.S.C. § 1362(6). A point source is defined as "any discernable, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, [or] conduit . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14). "Navigable waters" means "the waters of the United States." 33 U.S.C. § 1362(7).

The CWA's permitting requirements apply specifically to discharges of polluted storm water. 33 U.S.C. § 1342(p). By their acts and omissions, the named entities have permitted, facilitated, and allowed the construction of unpermitted storm water and industrial collection systems and jointly contributed to all of the described violations herein. Appendixes 1-5 show specifically the outfalls and point sources that are known. Due to the existence of interlocking prior restraints upon disclosure of information and access to the Courts in the State of Washington, other specific point sources may exist that are not yet reasonably discoverable.

The Clean Water Act provides that, in any given state or region, authority to administer the NPDES permitting system can be delegated by the federal Environmental Protection Agency (hereafter, "EPA") to a state or regional regulatory agency, provided that the nondiscretionary condition is met that applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria and all applicable Federal CFRs. (see also 33 U.S.C. §1342(b)). In Washington, the EPA has granted authorization to a state regulatory apparatus to issue NPDES permits. This authorization is manifestly unlawful and beyond the discretionary power of the administrator in that 33 USC 1342, at C (2) provides

Any State permit program under this section shall at all times be in accordance with this section and guidelines promulgated pursuant to section 1314 (i) (2) of this title.

33 USC 1314, at I (2) provides

**(i) Guidelines for monitoring, reporting, enforcement, funding, personnel, and manpower**

The Administrator shall

(1) within sixty days after October 18, 1972, promulgate guidelines for the purpose of establishing uniform application forms and other minimum requirements for the acquisition of information from owners and operators of point-sources of discharge subject to any State program under section 1342 of this title, and

(2) within sixty days from October 18, 1972, promulgate guidelines establishing the minimum procedural and other elements of any State program under section 1342 of this title, which shall include:

(A) monitoring requirements;

(B) reporting requirements (including procedures to make information available to the public);

(C) enforcement provisions; and

(D) funding, personnel qualifications, and manpower requirements (including a requirement that no board or body which approves permit applications or portions thereof shall include, as a member, any person who receives, or has during the previous two years received, a significant portion of his income directly or indirectly from permit holders or applicants for a permit).

The State of Washington has manifestly violated each and every one of these programmatic requirements, and allowed violations so egregious as to compromise the entire regulatory scheme. Washington has so abused its delegated NPDES authority, and placed it in private association's hands to the extent that it is a manifest and nondiscretionary duty of the administrator to initiate proceedings and revoke state authority to regulate CWA compliance.

The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in these cases is the Washington State Department of Ecology. The City of Olympia, Port, Weyerhaeuser and LOTT own, maintain, and operate wastewater treatment, refuse and disposal facilities, storm water systems and numerous treated and untreated point sources. (Hereafter, "the Facilities"). The Facilities are major dischargers as defined by the EPA. The Facilities discharges both into Budd inlet and Puget Sound. The Facilities have chronic pollution problems associated with, among other things, their antiquated collection system, undersized facility, and inconsistent reporting and maintenance schedule.

In addition, due to a pattern and policy of secrecy and violation of permitting and environmental laws, the City, Port, LOTT and Weyerhaeuser, with the complicity of the State DOE have colluded to construct a defective and unpermitted wastewater collection and discharge system, and further colluded to evade reporting and effluent limitation standards and illegally discharge toxic waste into the sound in amounts dangerous to human health and endangered species, and their habitat, including the Puget Sound Resident Orcas. The location of the violations is the property of Port of Olympia, and particularly the former Cascade Pole site and present Log Yard, the LOTT facility, and East Bay Redevelopment area, with the accompanying collection systems and discharge points, as permitted, unpermitted and proposed. The areas and outfalls are shown in appendix 1-5; to the extent they are known.

Pursuant to §301(a) of the Clean Water Act, 33 U.S.C. §1311(a), the State of Washington DOE has formally concluded that egregious violations by the Port of its NPDES Permit have occurred, as well as violations of standards of performance as defined in prohibited by law. Beneficial uses of most portions of lower Puget Sound are being affected in a prohibited manner by these violations. Pursuant to § 304 of the Clean Water Act, 33 U.S.C. §1311, the EPA and/or the State have identified the City's, Port's LOTT's and Weyerhaeuser's Facilities as a point sources, the discharges of which contribute to violations of applicable water quality standards. Other unidentified point sources have been illegally constructed or are planned and/or under construction in regard to the Weyerhaeuser Log Yard and the East Bay Redevelopment Project.

Over the past Four years, the City, Port, LOTT, and Weyerhaeuser have violated requirements of their NPDES permits for discharge limitations, effluent limitations, receiving water limitations, section 303 (d) limitations, monitoring and reporting requirements as reported by the City, port, Lott and/or Weyerhaeuser in its monitoring reports and other documentation filed with the DOE, and unpermitted discharges due to failures in the collection system. In addition, due to a collusion and conspiracy of Port, City, and Weyerhaeuser officials, deliberate violations of existing permits and construction of unpermitted collection systems of unknown scope and danger have been illegally allowed. Furthermore, these violations are continuing. The violations, established in the City's, Port's DOE's and Weyerhaeuser's monitoring data, raw data, records of the City and of the DOE, include but are not limited to the following:

#### **A. Discharge Prohibitions**

##### **Violations Description**

Discharge of raw sewage due to collection system wastewater overflows.

Treatment plant bypasses.

Prohibition of discharge of non-disinfected or untreated turbid storm and wastewater.

Discharge flow limit due to failure to monitor and report flow.

Discharge from unpermitted, unlawful, unmonitored and undisclosed collection systems.

#### **B. Effluent Limitations**

##### **Violations Description**

Lead, Zink, and Mercury limits

Daily maximum limit on total Coli form organisms.

Biological Oxygen Demand ("BOD").

PH

Turbidity

Settle able solids.

Chlorine residual limits

Toxic pollutant limits (see below)

Dioxin and related compounds

TMDL limits for discharge into 303(d) listed waters

Deliberate and negligent failure to report, test, or

Measure discharge to ensure compliance

#### **C. Receiving Water Limitations**

##### **Violations Description**

PH limits.

Turbidity levels for failure to monitor or report.  
All other items mentioned in B, above  
Prohibition on floating material, odor, taste, discoloration, bottom deposits, biostimulants, bioaccumulation of pesticides, fungicides, wood treatment chemical, or other toxic pollutants for failure to monitor or report.

#### **D. Reporting and Monitoring Violations**

##### **Violations Description**

Failure to monitor or report due to collusion or conspiracy to suppress and conceal violations  
Failure to measure due to deliberate policy, collection system defect, or equipment malfunctions.  
Failure to construct system with proper procedure in a manner to allow reasonable monitoring  
Failure to properly monitor and report levels of turbidity, PH, mercury, chromium (VI), lead, arsenic, cadmium, mercury, molybdenum, nickel, selenium, zinc, and toxic pollutants and failure to provide a basis for not monitoring pursuant to 40 CFR 131.36.  
Filing monthly and/or quarterly self-monitoring reports late or not at all.

#### **E. Response violations.**

Failure to conduct level 1 or other response to events as required in permit.  
Failure to respond to known violations

#### **F. 40 CFR 130 violations**

Discharge into section 303(d) listed waters of Budd inlet of TMDL amounts in excess of or in violation of 40 CFR 130.1-15, and or failure to adopt policies or plans to comply with 40 CFR.

#### **G. Discharge of toxic pollutants**

The following comprise the list of toxic pollutants designated pursuant to section 307(a)(1) of the Act which the named entities are responsible for unlawfully discharging on each specific day and from each specific outfall over the last 4 years: Acenaphthene, Acrolein, Acrylonitrile, Aldrin/Dieldrin<sup>1</sup>,<sup>(1)</sup> Effluent standard promulgated (40 CFR part 129), Antimony and compounds<sup>2</sup>,<sup>(2)</sup> The term *compounds* shall include organic and inorganic compounds), Arsenic and compounds, Asbestos, Benzene, Benzidine<sup>1</sup>, Beryllium and compounds, Cadmium and compounds, Carbon tetrachloride, Chlordane (technical mixture and metabolites), Chlorinated benzenes (other than dichlorobenzenes), Chlorinated ethanes (including 1,2-di-chloroethane, 1,1,1-trichloroethane, and hexachloroethane), Chloroalkyl ethers (chloroethyl and mixed ethers), Chlorinated naphthalene, Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols), Chloroform, 2-chlorophenol, Chromium and compounds, Copper and compounds, Cyanides, DDT and metabolites<sup>1</sup>, Dichlorobenzenes (1,2-, 1,3-, and 1,4-dichlorobenzenes), Dichlorobenzidine, Dichloroethylenes (1,1-, and 1,2-dichloroethylene), 2,4-dichlorophenol, Dichloropropane and dichloropropene, 2,4-dimethylphenol, Dinitrotoluene, Diphenylhydrazine, Endosulfan and metabolites<sup>1</sup>, Endrin and metabolites<sup>1</sup>, Ethylbenzene, Fluoranthene, Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis(dichloroisopropyl) ether, bis-(chloroethoxy) methane and polychlorinated diphenyl ethers), Halomethanes (other than those listed elsewhere; includes methylene chloride, methylchloride, methylbromide, bromoform, dichlorobromomethane, Heptachlor and metabolites, Hexachlorobutadiene, Hexachlorocyclohexane, Hexachlorocyclopentadiene, Isophorone, Lead and compounds, Mercury and compounds, Naphthalene, Nickel and compounds, Nitrobenzene, Nitrophenols (including 2,4-dinitrophenol, dinitrocresol), Nitrosamines, Pentachlorophenol, Phenol, Phthalate esters, Polychlorinated biphenyls (PCBs)<sup>1</sup>, Polynuclear aromatic hydrocarbons (including benzantracenes, benzopyrenes, benzofluoranthene, chrysenes, dibenz-anthracenes, and indenopyrenes), Selenium and compounds, Silver and compounds, 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), Tetrachloroethylene, Thallium and compounds, Toluene, Toxaphene<sup>1</sup>, Trichloroethylene, Vinyl chloride, Zinc and compounds


Outfall locations: The outfall locations are as specified in Appendix 1-5 and as described in West's previous CWA 60 day letter. These enumerated violations are based upon review of monitoring data submitted by the Port to the DOE. In addition to all of the above violations, this notice covers any and all violations of Permits held by the City, Port, and LOTT, evidenced by the Port and City's monitoring reports which they have submitted to the DOE and/or the EPA during the period January 2004 through the present. This NOTICE OF INTENT TO FILE SUIT also covers any and all violations which may have occurred but for which data may not have been available or submitted or apparent from the face of reports or data submitted regarding the city, port and Weyerhaeuser to the DOE or EPA.

Pursuant to §309(d) of the Clean Water Act, 33 U.S.C. §1319(d), each of the above described violations of the Clean Water Act subjects the violators, and each of them, to a penalty of up to \$27,500.00 per day per violation for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. West alleges a separate violation for each of the appended described point sources, effluent limitations and monitoring requirements, for each and every day in the past 5 years. In addition to civil penalties, West will seek injunctive relief preventing further violations of the Clean Water Act pursuant to §505(a) and §505(d), 33 U.S.C. §1365(a) & (d), and such other relief as is permitted by law, including revocation of Washington State authority to issue NPDES permits. Lastly, §505(d) of the Clean Water Act, 33 U.S.C. §1365(d), permits prevailing parties to recover costs and fees. The violations of the City, Port, LOTT, Weyerhaeuser and the State of Washington as set forth in this NOTICE OF INTENT TO FILE SUIT particularly effect the health and enjoyment of petitioner West and all who reside and recreate in the Puget Sound area. West eats fish and shellfish from the sound and employs Budd Inlet and the sound for, recreation, sports, hiking, photography, mammal and bird watching, sailing, swimming, nature walks and the like. West's health, use and enjoyment of this natural resource are specifically impaired by the City's, Port's and Weyerhaeuser's violations of the Clean Water Act and their degradation of water quality.

West believes this NOTICE OF INTENT TO FILE SUIT sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter West intends to file a citizen's suit under § 505(a) of the Clean Water Act against the City, Port Weyerhaeuser, the State, DOE, and the Administrator for specific limitation, discharge and monitoring and reporting violations, for unlawful construction of substandard and unpermitted facilities, as well as for revocation of State authority to implement the NPDES permitting system due to systemic and irreparable defects and improper delegation of State authority to private organizations.

During the 60-day notice period, West may be willing to discuss effective remedies for the violations noted in this NOTICE OF INTENT TO FILE SUIT, with the exception of any necessary criminal prosecution, which is not negotiable under any circumstances. You may wish to initiate those discussions within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. Please realize that unlike Mr. Richard Smith, West will not postpone the filing of a complaint if discussions are continuing when this 60 day period ends. All communications should be addressed to: Arthur West at his address: 120 State Avenue, NE #1497, Olympia Wa. 98501, or E-Mail at Awestaa@Gmail.Com.

Sincerely,

  
Arthur West

Cc.

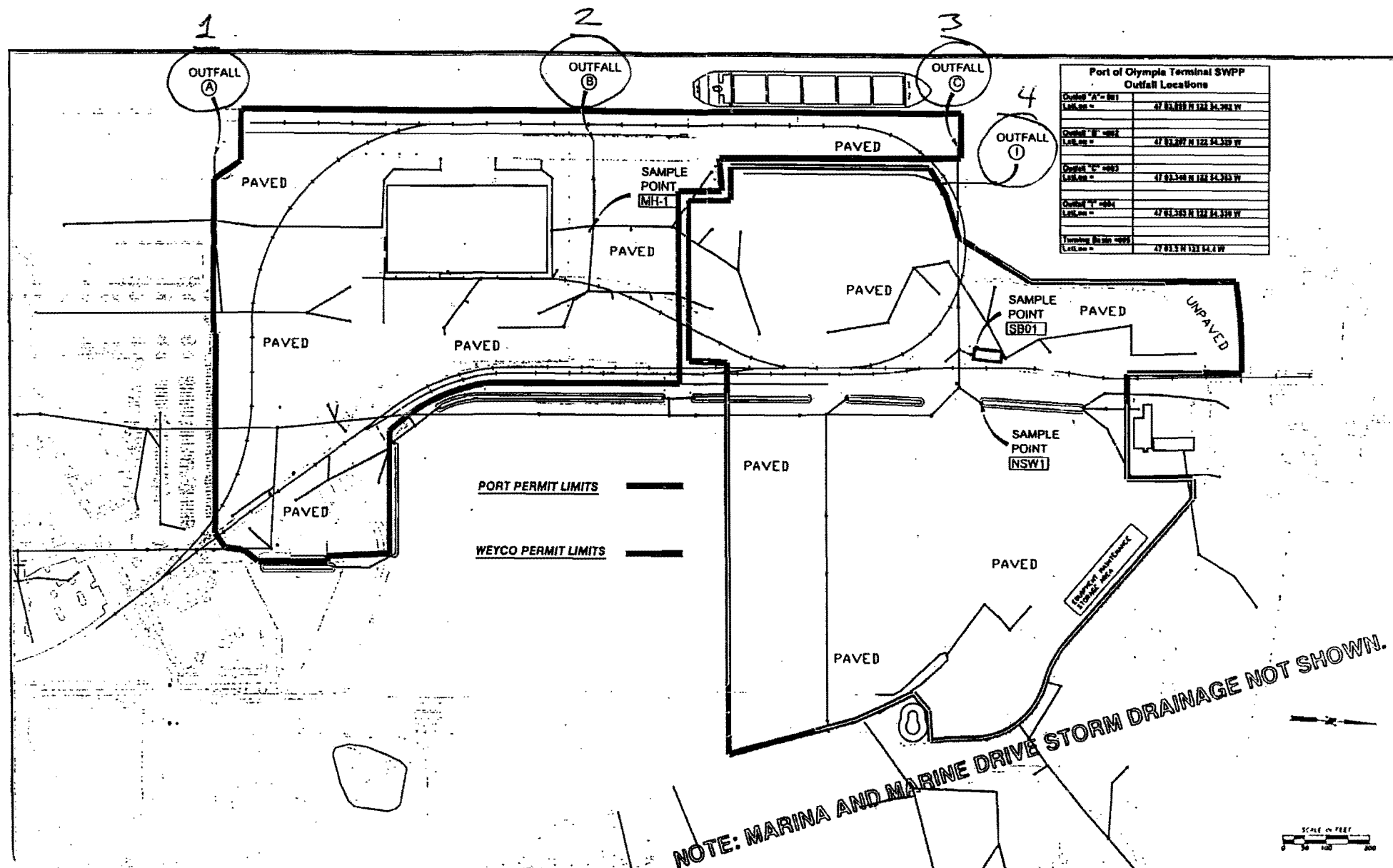
Michael Mukasey, AG,  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Stephen Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Region 10 Administrator  
Environmental Protection Agency  
1200 Sixth Avenue, Suite 900  
Seattle, WA 98101

Jay Manning  
Washington State Department of Ecology  
P.O. Box 47600, Olympia,  
WA 98504-7600

Exhibit I



Port of Olympia Terminal SWPP Outfall Locations	
Outfall "A" - MH-1	47 03.029 N 122 54.392 W
Outfall "B" - MH-2	47 03.029 N 122 54.392 W
Outfall "C" - MH-3	47 03.029 N 122 54.392 W
Outfall "D" - MH-4	47 03.029 N 122 54.392 W
Turning Basin - MH-5	47 03.029 N 122 54.392 W

Port of Olympia

PROPOSED PERMIT AREA REVISIONS  
CARGO AREAS  
MARCH 2006

NO.	REVISION	DATE	BY
1			
2			
3			
4			
5			

DESIGNED BY:	DATE:
DRAWN BY:	DATE:
CHECKED BY:	DATE:
APPROVED BY:	DATE:

SCALE: 1" = 200'  
DRAWING NO. 1 OF 1

## Port of Olympia Terminal SWPP

(LatLon in degrees, decimal minutes)  
2006 Nov 15

Outfall "A" = 001

LatLon = 47 03.059 N 122 54.302 W

Outfall "B" = 002

LatLon = 47 03.207 N 122 54.329 W

Outfall "C" = 003

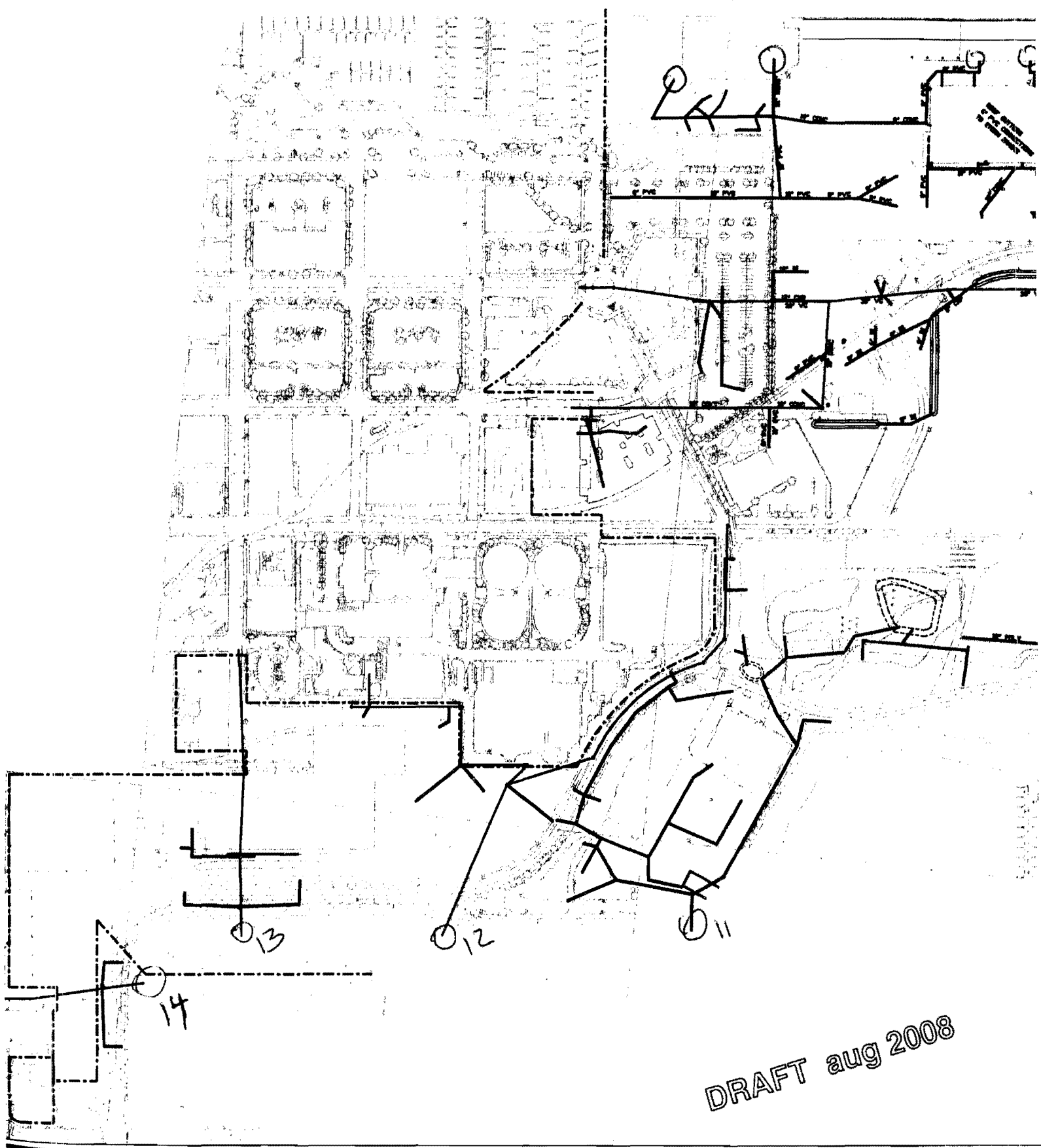
LatLon = 47 03.348 N 122 54.353 W

Outfall "I" = 004

LatLon = 47 03.353 N 122 54.336 W

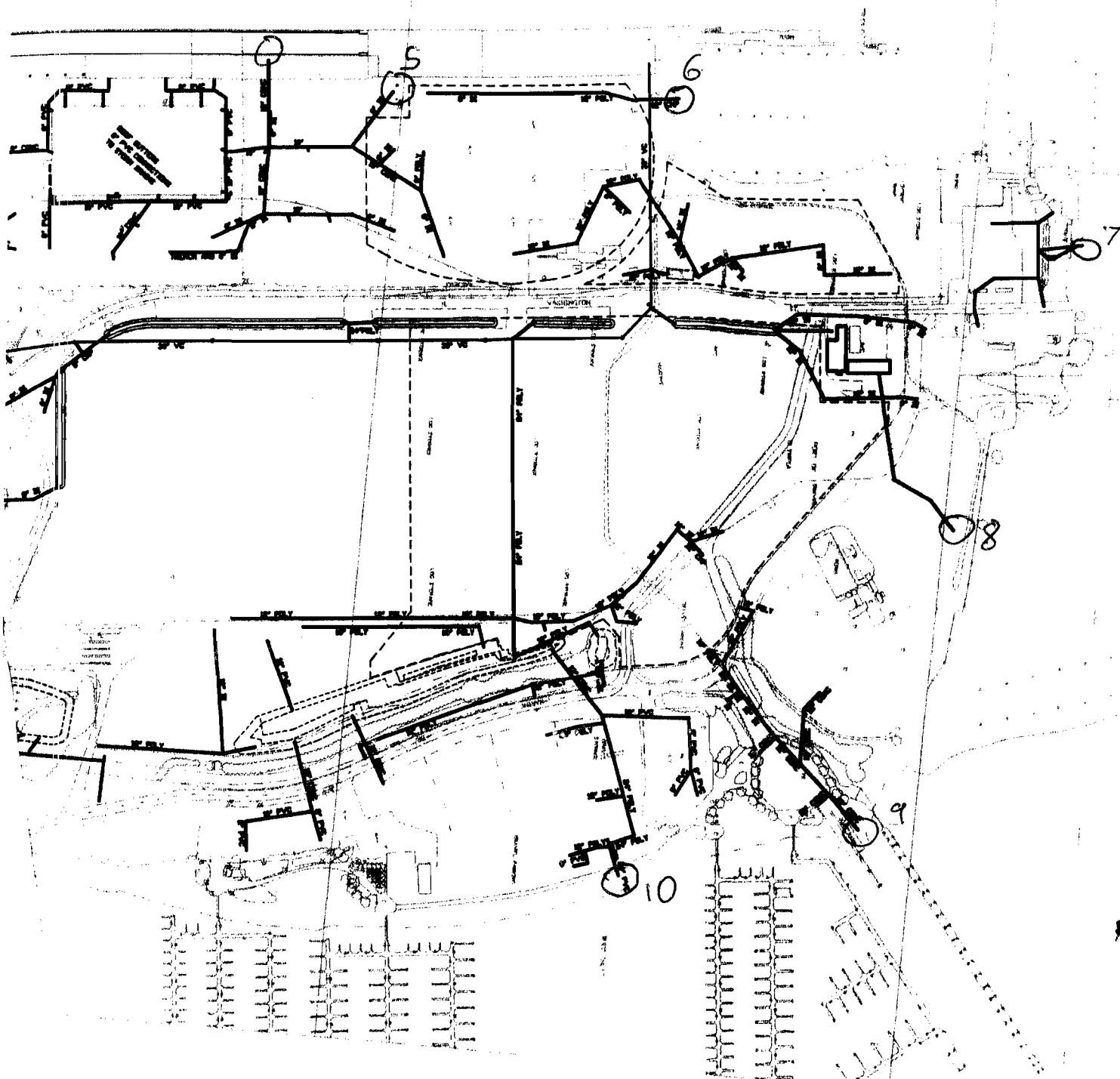
Turning Basin = 005

LatLon = 47 03.2 N 122 54.4 W



DRAFT aug 2008





8

# JAGE FORM DRAINS

NO.	REVISION	DATE	BY
1	marine dr. north	10/12/05	ee

SCALE:	DATE:
DESIGNED BY:	DATE:
DRAWN BY:	DATE:
APPROVED BY:	DATE:

DRAWING NO.



Issuance Date: September 1, 2005  
 Effective Date: October 1, 2005  
 Expiration Date: September 30, 2010

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
 WASTE DISCHARGE AND RECLAIMED WATER PERMIT No. WA0037061

STATE OF WASHINGTON  
 DEPARTMENT OF ECOLOGY  
 OLYMPIA, WASHINGTON 98504-7600

In compliance with the provisions of the  
 State of Washington Reclaimed Water Act, Chapter 90.46 Revised Code of Washington  
 and the  
 Water Pollution Control Law Chapter 90.48 Revised Code of Washington, as amended

and  
 The Federal Water Pollution Control Act  
 (The Clean Water Act)  
 Title 33 United States Code, Section 1251 et seq.

and  
 STATE OF WASHINGTON  
 DEPARTMENT OF HEALTH  
 In compliance with the provisions of Chapter 90.46 and 43.70 Revised Code of Washington  
 Authorizes

**LOTT Alliance**  
 111 Market Street NE, Suite 250  
 Olympia, Washington 98501

and the  
Contributing Jurisdictions<sup>a</sup>

City of Lacey  
 P.O. Box 3400  
 Lacey, WA 98509

City of Olympia  
 P.O. Box 1967  
 900 Plum St SE  
 Olympia, WA 98507

City of Tumwater  
 555 Israel Rd SW  
 Tumwater, WA 98501

Thurston County  
 2000 Lakeridge Dr SW  
 Olympia, WA 98502

Plant Location:  
 500 Adams Street NE, Olympia, WA

Receiving Water:  
 Budd Inlet, South Puget Sound

Water Body I.D. No.:  
 Old: 390KRD  
 New: 1224026474620

Plant Discharge Locations:  
 001 North Outfall  
 Latitude: 47° 03' 34" N  
 Longitude: 122° 54' 16" W

Reclaimed Water Location:  
 005 Reclaimed Water  
 47° 02' 49" N  
 122° 53' 43" W

Plant Type:  
 Activated Sludge/Advanced Treatment and  
 Class A Reclaimed Water

002 Fiddlehead Outfall (Emergency use only)  
 Latitude: 47° 03' 04" N  
 Longitude: 122° 54' 14" W

to discharge in accordance with the special and general conditions which follow.

Kelly Susewind, P.E., P.G.  
 Southwest Regional Manager  
 Water Quality Program  
 Washington State Department of Ecology

<sup>a</sup>While the LOTT Alliance is the primary Permittee and has day-to-day responsibility for the treatment plant and all permit conditions, except as otherwise noted, the cities of Lacey, Olympia, and Tumwater and Thurston County as contributing jurisdictions collectively share responsibility for permit issues involving the treatment plant and discharge, as well as being responsible for their respective collection systems and lift stations, and the discharge of waste from their systems to the LOTT system.

# Memorandum

**To:** Jim Amador; Kari Qvigstad  
**From:** Andrea Fontenot & Rod Hudson  
**Date:** 6-9-05  
**Re:** LP Improvement Schedule dated 6-9-05

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The purpose of this memo is to outline the assumptions and risks associated with the attached schedule that you have requested from Rod Hudson. His instructions were to put a schedule together that could accomplish all of the proposed cargo yard improvements associated with the LP lease in this year.

This schedule makes the following assumptions:

1. There is no float time in the event something falls behind schedule due to an unforeseen event.
2. No permits are sought for this work.
3. Little design time is available for evaluating stormwater treatment options.
4. No formal Commission approvals are required that could delay the schedule including any budget approvals that have not already been granted.
5. The design team is able to meet the deadlines included in the schedule.
6. The pavement strength would be achieved through thicker asphalt instead of restructuring the base. This trades off time with money and would increase the cost of the project somewhat.
7. Revisions to the cost estimate are required to reflect the change in construction approach.
8. No other urgent projects are introduced for us to complete within this timeframe.

June 9, 2005

9. Existing staff resources would be able to manage the project on an accelerated schedule and still meet other obligations.

We also want to make you aware that there is considerable risk in this approach in the event that the Port is unable to meet the schedule. You should consider a fall back position in that event.



STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

PO Box 47775 • Olympia, Washington 98504-7775 • (360) 407-6300

February 22, 2008

Mr. Don Bache  
Port of Olympia  
915 Washington Street NE  
Olympia, WA 98501

Re: NPDES Permit Number SO3001168D

Dear Mr. Bache:

Enclosed is the report from the Department of Ecology's recent Industrial Stormwater NPDES General Permit compliance inspection conducted at your facility on February 6, 2008. I would like to thank you for the time you spent with me during my visit. Enclosed is a copy of my inspection report.

It should be noted that violations of your permit were documented. I would like to remind you that full compliance with the permit is required despite negotiations with other members of the community.

Please contact me at 360-407-6273 or [psta461@ecy.wa.gov](mailto:psta461@ecy.wa.gov) if you have any questions, comments or would like additional technical assistance.

Sincerely,

Paul Stasch  
Industrial Stormwater Facility Manager  
Southwest Regional Office  
Water Quality Program

Enclosures





# National Pollutant Discharge Elimination System (NPDES) Permit Compliance Inspection Report

## Section A

NPDES Permit Number SO3001168DGeneral ☒Industrial ☒

Permit Effective Date

September 20, 2002

Inspection ☒Inspection ☐  
with SamplesUnpermitted ☐  
Facility

Permit Expiration Date

September 20, 2007

## Section B

Name and Location of Facility Inspected

Port of Olympia  
915 Washington Street NE  
Olympia, Washington 98501

County

Thurston

Entry Time

0810

Inspection Date

2/6/2008

Exit Time

0950

Name(s) of On-Site Representative(s)

Don Bache

Title(s)

Phone Number(s)

(360) 528-8062

Name, Address of Responsible Official

Same as Above

Phone

( )

Contacted

☒ Yes ☐ No

Title

## Section C

(S = Satisfactory, M = Marginal, U = Unsatisfactory, N = Not Evaluated)

S	Permit		Effluent/Receiving Waters		Compliance Schedules		Sludge Disposal
U	Records/Reports		Flow Measurement		Laboratory		Pretreatment
S	Facility Site Review	U	Self-Monitoring Program		Operations/Maint.		Other:

## Section D Summary of Findings

At the time of my initial Arrival, Mr. Bache was preparing to sample the groundwater treatment system at the old Cascade Pole site. I agreed to return in two hours. Upon my return, I reviewed quarterly monitoring results.

The results for all benchmark parameters since the second quarter of 2006 are below the Benchmark Values except the second quarter of 2007. The monitoring results for zinc, copper and BOD5 are 190 ug/L, 559 ug/L and 93.6 mg/L, respectively. No Level I Response was conducted.

Mr. Bache does not remember if the recent quarterly monitoring results have been submitted to Ecology. Results for the fourth quarter of 2007 were good. These results had not been submitted to Ecology but were due on February 14, 2008. A review of WPLCS data indicates the last submittal was for the first quarter of 2007.

When questioned why monitoring results have not been submitted to Ecology and when the appropriate Level I Responses have not been conducted and documented, Mr. Bache replied, it was because of on-going negotiation between the Port and Richard Smith. Mr. Smith's law firm has filed a Notice of Intent against the Port for non-compliance with the Industrial Stormwater General Permit (ISWGP).

REQUIREMENTS: 1. Immediately conduct and document in the SWPPP a Level I Response for zinc, BOD5 and copper. 2. Submit quarterly monitoring results to Ecology in a timely fashion.

### RECOMMENDATION:

REMINDER: If two consecutive Quarterly Monitoring results for zinc are over the benchmark value of 117 ug/L, the next quarter's monitoring must include analyses for copper and lead.

☐ Announced  
☒ Unannounced

Name(s) and Signature(s) of Inspector(s)	Section/Phone Number	Date
Paul Stasch <i>Paul Stasch</i>	SWRO (360) 407-6273	2-26-08
Signature of Reviewer	Section/Phone Number	Date
Steve Eberl <i>Steve Eberl</i>	SWRO (360) 407-6293	2-26-2008

**To:** Dylan Trivison

**Subject:** RE: Paul Stache Visit

Good morning Dylan.

Mr Stache of WADOE showed up at my office on Thursday July 19th at aprox 1400 hours. He informed me that there was "discharge" occurring at the port's storm water outlet and demanded that I come look at it. I followed him out to the north end of berth 3 where he and I walked under the berth. The City of Olympia storm water pipe was discharging water, it had been raining hard for the last few days, with the discharge water being much darker then the surrounding water. He asked where this water was coming from. We walked up to the top of the dock and I asked Mr. Stache where did he think water was coming from. I pointed out to him that the Port did not have any logs or wood products on site. I asked did he notice that the swales around the Holbrook site where cleaned out and boomed. He acknowledged these points. He asked me where water was coming from and I explained to him that the City storm water pipes draw from the entire downtown drainage area. I explained to him that perhaps silt/sediments where being washed from deposits in the pipe or that the high discharge from the City pipe was stirring up deposited sediments from around pipe.

Mr Stache directed me and insisted that I sample the water at City storm drain. I informed him that this is not where the Port samples for storm water. He insisted that I sample the water. I left to collect and prepare storm water sampling gear. Mr Stache drove off to the south east. I was back at the berth 3 area at aprox 1445. Mr Stache returned and showed me an old dirty plastic Coke bottle with a clearish gray liquid inside. He claimed that he had taken a "sample" of the storm water at the Holbrook site in a swale. I did not see the Coke bottle with his "sample" again. I do not know what he did with the bottle or which swale the "sample" was taken from.

I proceeded to sample the storm water at the point of obvious discharge (the pipe outlet was below tide level and water was boiling up to surface) of the City storm water pipe under berth 3. I asked Mr Stache if he was going to take the sample in and pay for the analysis. He informed that he was not that I should take it but not report the results, that I should use the results to compare to the results of Port compliance sampling. I informed Mr Stache that I was not planning on sampling this event as at the time I was completely out of the criteria for sampling as set forth in permit. Mr Stache informed me that the criteria in permit where just guidelines and that I better sample at Port compliance points as there was a discharge occurring and that I was just trying to avoided sampling because the "dry" season was starting. I proceeded to deliver the sample just taken from the City storm water pipe to Dragon Analytical. I picked up two more sets of sample bottles. I sampled at the Port compliance sample points later that afternoon of July 19th. I drove all over the Port permitted drainage area and at no place did I see discolored storm water. I drove along the storm water swales along the former Washing ton St and no where did I see grossly discolored storm water. I then turned in these samples to Dragon Analytical that evening.

I have not heard from Mr Stache since then. I should have sample results back by the week of July 30th. Contact me if you have any questions or comments  
Don J Bache.

-----Original Message-----

**From:** Dylan Trivison [mailto:dylan@holbrookinc.net]

**Sent:** Friday, July 20, 2007 11:50 AM

**To:** donb@portolympia.com

**Subject:** Paul Stache Visit

Don,

Could you send me an email stating what you saw yesterday during Ecology's visit. I know Mr. Stache took a sample with a Coke bottle, but what swale was he taking the sample from?

Thanks for your help,

List of DOE stormwater notification, to Port or Port tenants, in Port files for the current permit.

All below are to Port.

- 1) March 3, 2004. No documentation of employee training. Stormwater actively being exposed to contaminants on a daily basis.
- 2) February 10, 2005. Need for focused on appropriate management and BMP implementation in maintenance area. Source control for metals. Investigate advanced BMP's and possibly treatment BMP's for turbidity and BOD. Employee training.
- 3) November 3, 2006. Turn in quarterly DMR's in timely fashion. Port should conduct Level One response to Benchmark levels, monitoring parameters that Port is exceeding.



- B. A written agreement between the old and new owner or operator containing a specific date for transfer of permit responsibility, coverage, and liability is submitted to Ecology;
- C. A copy of this permit is provided to the new owner; and
- D. Ecology does not notify the Permittee of the need to submit a new application for coverage under the general permit or for an individual permit pursuant to Chapters 173-216, 173-220, and 173-226 WAC.

Unless this permit is automatically transferred according to section A. above, this permit may be transferred only if it is modified to identify the new Permittee and to incorporate such other requirements as determined necessary by Ecology.

#### **G15. DUTY TO REAPPLY**

The Permittee shall reapply for coverage under this permit, at least, one hundred and eighty (180) days prior to the specified expiration date of this permit. An expired permit continues in force and effect until a new permit is issued or until Ecology cancels it. Only those facilities which have reapplied for coverage under this permit are covered under the continued permit.

#### **G16. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be and be deemed to be a separate and distinct violation.

#### **G17. SIGNATORY REQUIREMENTS**

All applications, reports, or information submitted to Ecology shall be signed and certified.

- A. In the case of a municipal, State or other public facility, all permit applications shall be signed by a principal executive officer or ranking elected official. In the case of a corporation, partnership, or sole proprietorship, all permit applications shall be signed by either a principal executive officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by Ecology shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:



STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

TTY 711 or 800-833-6388 (for the speech or hearing impaired)

23 February 2007

Don Bache  
Port of Olympia  
P.O. Box 47775  
Olympia, WA 98504-7775

Dear Mr Bache:

**RE: Modification of Coverage under the Industrial Stormwater General Permit**

<b>Permit Number:</b>	SO3-001168
<b>Facility Name:</b>	Port of Olympia Ocean Terminal
<b>Location:</b>	915 Washington St NE Olympia, WA 98501-6931
<b>Modification:</b>	An acreage increase of 25% or more.

The Washington Department of Ecology (Ecology) has reviewed your Modification of Permit Coverage Form regarding the above project. We have updated your site information as of 2/15/2007. Ecology hereby modifies your permit coverage to include the above modification. **Please retain this permit coverage letter with your permit, stormwater pollution prevention plan (SWPPP), and site log book. It is the official record of permit coverage for your site.**

**Appeal of Permit Coverage**

You may appeal the terms and conditions of a general permit, as they apply to an individual discharger, within 30 days of the effective date of coverage of that discharger (see Chapter 43 21B RCW). This appeal is limited to the general permit's applicability or non-applicability to a specific discharger.

Please find the procedures and requirements for the appeals process in the Revised Code of Washington (RCW) 43 21 B312. Appeals should be directed to:

Pollution Control Hearings Board  
PO Box 40903  
Olympia, Washington 98504-0903

Department of Ecology  
Appeals Coordinator  
P.O. Box 47608  
Olympia, Washington 98504-7608

